

SENATE BILL REPORT

SB 5388

As Reported by Senate Committee On:
Labor, Commerce & Consumer Protection, February 5, 2009

Title: An act relating to motor vehicle dealer disclosure of damage and repairs in the sale of new motor vehicles.

Brief Description: Requiring motor vehicle dealers to disclose whether a new motor vehicle has sustained damage, repaired or not, in the sale of the new motor vehicle.

Sponsors: Senators Parlette, Murray, Swecker, Carrell, King, Tom, Kohl-Welles and Franklin.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 1/26/09, 2/05/09 [DPS].

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5388 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist, Ranking Minority Member; Franklin, Honeyford, King and Kline.

Staff: Alison Mendiola (786-7483)

Background: The practices of dealers and manufacturers practices are regulated by 46.70 RCW. Within this chapter, a number of practices by dealers and manufacturers are determined to be unlawful, for which the penalty is a misdemeanor. A civil action for any of the violations may be brought in superior court to seek an injunction, and recover actual damages and costs of the litigation, including reasonable attorneys' fees. Violations are also a violation of the Consumer Protection Act.

Summary of Bill (Recommended Substitute): Any known damage and repair to a new motor vehicle must be disclosed in writing by the manufacturer to the dealer, dealer-to-dealer, and dealer to buyer. This only applies to damage that exceeds \$1,000 or 5 percent of the Manufacturer's Suggested Retail Price (MSRP), whichever is greater.

However, a manufacturer or new motor vehicle dealer is not required to disclose to the dealer or buyer that glass, tires, bumpers, or cosmetic parts of a new motor vehicle were damaged if the damaged item has been replaced with original or comparable equipment.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

"Cosmetic parts" means parts that are attached by and can be replaced in total through the use of screws, bolts, or other fasteners without the use of welding or thermal cutting, and includes windshields, bumpers, hoods, or trim panels.

If a disclosure is not required, a buyer may not revoke or rescind a sales contract due to the fact that the new motor vehicle was damaged and repaired before completion of the sale.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Substitute): A duty for the manufacturer to disclose damage to the dealer is added. It is clarified that certain damage or repair does not need to be disclosed; if it is nominal (less than 5 percent or up to \$1,000 of the MSRP), cosmetic, or involves glass, tires and bumpers if those items are replaced with original or comparable equipment.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: If you purchase a new vehicle there is no requirement that a dealer disclose any damage. A dealer transferred a vehicle to another dealer that had been damaged but the first dealer did not disclose this. The second dealer sold the car and the subsequent buyer had problems as a result of the damage that was not disclosed.

CON: This bill is not necessary. State common law already requires that material defects be disclosed.

Persons Testifying: PRO: Senator Parlette, prime sponsor; Richard Stilwater, private citizen.

CON: Scott Hazelgrove, Washington State Auto Dealers Association.